

## REMARKS

This Amendment is filed in response to the Office Action dated October 7, 2005, which has a shortened statutory period set to expire January 7, 2005.

### Applicant Confirms Election Of Claims

Applicant confirms the election of Claims 1-20 and 25-27 for prosecution. Therefore, Applicants have withdrawn Claims 21-27 herein, but reserve the right to file a divisional application on such claims.

### Applicant Submits Amended Figure 1

Per the Examiner's request, Applicant has amended Figure 1 such that the references to Clients 104-109 appear in an orientation similar to that of Servers 101 and 102. Therefore, Applicant requests entry of this amended Figure 1 and request reconsideration and withdrawal of the objection to this figure.

### Claims 1-20 and 25-27 Are Patentable Over Didcock

Claim 1 (amended to correct for an informality) recites:  
determining whether a number of bytes exceeds a predetermined threshold, wherein if not, then writing the message only to a memory, and wherein if so, then writing the message to the memory and a non-volatile storage.

Applicant respectfully submits that Didcock fails to disclose or suggest this limitation. Specifically,

[The messaging system of Didcock] establishes a first data stream from a file server into a storage resource (or "stream cache"), and subsequently establishes a second data stream from the storage resource to a data destination. Thus, [the messaging system of Didcock] "streams from a stream." Preferably, the rate at which data can be streamed from the file server into the storage resource is

faster than the rate at which data is depleted during streaming from the storage resource to the data destination. Through the use of high and low threshold conditions, [the messaging system of Didcock] facilitates the periodic interruption of streaming from the file server, while allowing for uninterrupted stream delivery to the data destination. This in turn maximizes the file server's ability to efficiently perform other tasks while streaming to the data destination occurs.

Col. 11, lines 4-18.

The Office Action cites the Abstract, Figs. 2 and 3, col. 2, lines 32-42 and col. 3, lines 3-22 as teaching the determining step. Applicant traverses this characterization. The background stream manager 226 (Fig. 2) monitors the amount of contiguous message data that has been streamed from the file server 110 (Fig. 1) into the LTSR 230 relative to a current playback position and determines whether a high threshold parameter has been exceeded. Col. 3, lines 3-7. If so, then the background stream manager 226 interrupts the streaming of message data. Col. 3, lines 7-8. In contrast, the foreground stream manager 224 monitors the amount of contiguous message data within the LTSR 230 yet to be streamed to the voice board unit 210 relative to the current playback position and determines whether a low threshold parameter has been exceeded. Col. 3, lines 9-13. If so, then the foreground stream manager 224 issues a resume notification to the background stream manager 226, thereby resuming message data streaming from the file server 110 into the LTSR 230.

Therefore, because these passages and figures of Didcock fail to disclose or suggest Applicant's recited step of determining, Applicant requests reconsideration and withdrawal of the rejection of Claim 1.

Claims 2-10 depend from Claim 1 and therefore are patentable for at least the reasons presented for Claim 1.

Based on those reasons, Applicant requests reconsideration and withdrawal of the rejection of Claims 2-10.

Applicant also traverses certain characterizations in the Office Action associated with Claims 2-10. However, because the Office Action fails to cite prior art that teaches the limitations of the base claim, i.e. Claim 1, these traversals are not included herein.

Claim 11 (amended to correct for an informality) recites:  
computer readable program code that determines if a number of bytes exceeds a predetermined threshold, wherein if not, then writing the message only to a memory, and wherein if so, then writing the message to the memory and a non-volatile storage.

Therefore, Applicant respectfully submits that Didcock fails to disclose or suggest this limitation for substantially the same reasons as presented for Claim 1. Based on those reasons, Applicant requests reconsideration and withdrawal of the rejection of Claim 11.

Claims 12-20 depend from Claim 11 and therefore are patentable for at least the reasons presented for Claim 11. Based on those reasons, Applicant requests reconsideration and withdrawal of the rejection of Claims 12-20.

Applicant also traverses certain characterizations in the Office Action associated with Claims 12-20. However, because the Office Action fails to cite prior art that teaches the limitations of the base claim, i.e. Claim 11, these traversals are not included herein.

Claim 25 (amended to correct for an informality) recites:  
determining whether a number of bytes exceeds a predetermined threshold, wherein if not, then writing the message only to a memory, and wherein if so, then writing the message only to non-volatile storage.

Therefore, Applicant respectfully submits that Didcock fails to disclose or suggest this limitation for substantially the same reasons as presented for Claim 1. Based on those reasons, Applicant requests reconsideration and withdrawal of the rejection of Claim 25.

Claims 26-27 depend from Claim 25 and therefore are patentable for at least the reasons presented for Claim 25. Based on those reasons, Applicant requests reconsideration and withdrawal of the rejection of Claims 26-27.

Applicant also traverses certain characterizations in the Office Action associated with Claims 26-27. However, because the Office Action fails to cite prior art that teaches the limitations of the base claim, i.e. Claim 25, these traversals are not included herein.


CONCLUSION

Claims 1-20 and 25-27 are pending in the present Application. Allowance of these claims is respectfully requested.

If there are any questions, please telephone the undersigned at 408-451-5907 to expedite prosecution of this case.

Respectfully submitted,

Customer No.: 022888



Jeanette S. Harms  
Attorney for Applicant  
Reg. No. 35,537

I hereby certify that this correspondence is being deposited with the United States Postal Service as FIRST CLASS MAIL in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 14, 2005.

-11/14/2005  
Date



Signature: Rebecca A. baumann